

SECRET

OGC Has Reviewed

Finance Division

Attention: Mr. [REDACTED]

Legal Staff

25X1A

31 August 1950 ✓

Agent Contract - [REDACTED]

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1. Your memorandum of 10 August 1950 presented the case of [REDACTED] and asked for advice in regard to the legal steps required to adjudge him "legally dead" in order that death benefits could be paid under the employment contract.

2. Since this employee was paid from unvouchered funds, Section 5.3 of the Confidential Funds Regulations is applicable. This section applies the provisions of the Missing Persons Act of 1942. Under Section 5 of that Act (Title 50 App. Sec. 1005) it states: "When the twelve months' period from date of commencement of absence is about to expire in any case of a person missing or missing in action and no official report of death or of being a prisoner or of being interned has been received, the head of the department concerned shall cause a full review of the case to be made. Following such review and when the twelve months' absence shall have expired, or following any subsequent review of the case which shall be made whenever warranted by information received or other circumstances, the head of the department concerned is authorized to direct the continuance of the person's missing status, if the person may reasonably be presumed to be living, or is authorized to make a finding of death. When a finding of death is made it shall include the date upon which death shall be presumed to have occurred for the purpose of termination of crediting pay and allowances, settlements of accounts, and payment of death gratuities and such date shall be the day following the day of expiration of an absence of twelve months, or in cases in which the missing status shall have been continued as hereinbefore authorized, a day to be determined by the head of the department."

3. It is further provided in Section 1009 of the Act that: "The head of the department concerned, or such subordinate as he may designate, shall have authority to make all determinations necessary in the administration of this Act * and * determinations so made shall be conclusive as to death or finding of death and **. If the twelve months' absence prescribed in Section 5 of this Act has expired, a finding of death shall be made whenever information received, or a lapse of time without information, shall be deemed to establish a reasonable presumption that any person in a missing or other status is no longer alive."

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4. You state that the contract which [REDACTED] signed with this Agency on 1 October 1947, contained a clause providing for death and disability benefits payable to his wife in accordance with the Employees Compensation Act in the amount of \$5,000.00. While the Missing Persons Act is primarily related to a continuation of pay and allowances, a determination of death under its provisions would seem to be equally applicable for purposes of determining the date of death in order that contractual benefits would be available to dependents.

5. Pending a change in the Confidential Funds Regulations to provide for delegation of the duties of review and determination, it is suggested that you withhold this case until the proper person is indicated to take necessary action.

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[REDACTED]

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[REDACTED]

cc: Subject /
Chrono
Legal Decisions
Vital Documents File

25X1A

Memo 22 June 1950 to Adso returned to

9/25/60

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